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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

8 DARREN CORNELIUS STANLEY, No. C-07-4727 EMC
9 Petitioner, DEATH PENALTY C
10 v. **ORDER RE SUBPOENA**
11 KEVIN CHAPPELL, Warden of San Quentin **DEPOSITIONS**
State Prison
12 Respondent. **(Docket No. 123)**

**ORDER RE SUBPOENAS AND
DEPOSITIONS**

(Docket No. 123)

15 Per an Order filed May 10, 2013, this Court authorized Fed. R. Civ. Pro. 27 depositions in
16 order to preserve the testimony of certain fact witnesses. Since then, this action has also been
17 referred for Alternative Dispute Resolution, and now to Magistrate Judge Laurel Beeler for
18 settlement proceedings. These referrals are based largely on the finding that Petitioner is
19 permanently incompetent, and therefore unable to make rational choices or to communicate
20 rationally with counsel.¹ Because Petitioner’s incompetency raises the possibility that, even if his
21 habeas petition were to be denied, he would not be amenable to execution under *Ford v.*
22 *Wainwright*, 477 U.S. 399, 422 (1986) (barring execution of “those who are unaware of the
23 punishment they are about to suffer and why they are to suffer it”), the Court found that referral of
24 the matter for good-faith settlement proceedings was a prudent way to potentially avoid expenditure

27 ¹ The parties agreed that Petitioner is incompetent and, in light of that agreement and in
28 accordance with the reports of the three experts who examined Petitioner, the Court found and
concluded that Petitioner was permanently incompetent.

United States District Court
For the Northern District of California

1 of scarce government and judicial resources. A settlement conference with Judge Beeler is currently
2 scheduled for January 7, 2014.

3 Petitioner has now submitted a proposed order for service of subpoenas and payment of fact
4 witnesses, in order to move forward with the preservation depositions previously authorized by the
5 Court. Based on the fact that the parties are actively involved in settlement proceedings, and in the
6 interest of cost containment and efficiency, the Court hereby **DEFERS** deposition of any fact
7 witnesses until after the currently scheduled settlement conference of January 7, 2014.² The Court
8 urges the parties to focus on settlement, given the unique circumstances of this case. After the
9 settlement conference, the parties may re-schedule the depositions if necessary.

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IT IS SO ORDERED.

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Dated: November 22, 2013

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EDWARD M. CHEN
United States District Judge

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² The Court is well aware that these depositions were authorized to preserve testimony of witnesses who might not be available in the future. Should there be a particular urgency to depose a certain witness prior to the settlement conference, Petitioner is instructed to notify the Court.